

Department of Energy

§ 1040.112

the recipient and the Assistant Attorney General shall be immediately advised, in writing, of the determination and of the fact that the recipient has an additional 10 days in which to come into voluntary compliance. If voluntary compliance has not been achieved within the 10 days, the Director shall institute proceedings under subpart H. All agreements to come into voluntary compliance shall be in writing and signed by the Director, OEO, and an official who has authority to legally bind the recipient. The complainant shall also be notified of any action taken including the closing of the complaint or achievement of voluntary compliance.

(6) If the complainant or party other than the Attorney General has filed suit in Federal or State court alleging the same discrimination alleged in a complaint to DOE, and if during DOE's investigation, the trial of that suit would be in progress, DOE will consult with the Assistant Attorney General and court records to determine the need to continue or suspend the investigation and will monitor the litigation through the court docket and contacts with the complainant. Upon receipt of notice that the court has made a finding of discrimination against a recipient that would constitute a violation of this part, the DOE may institute administrative proceedings as specified in subpart H after DOE has advised the recipient, in writing, of an opportunity to request voluntary compliance under this section. All agreements to come into voluntary compliance shall be in writing and signed by the Director and an official who has authority to legally bind the recipient.

(7) The time limits listed in paragraphs (c)(1) through (c)(6) of this section shall be appropriately adjusted where DOE requests another Federal agency to act on the complaint. DOE is to monitor the progress of the matter through liaison with the other agency. Where the request to act does not result in timely resolution of the matter, DOE is to institute appropriate proceedings as required by this part.

(d) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for

the purpose of interfering with any right or privilege secured by the laws implemented in this part or because the complainant has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants is to be kept confidential except as determined by the Director, FAPD, to be necessary to carry out the purpose of this subpart, including investigations, hearings, or judicial proceedings arising thereunder.

Subpart H—Enforcement

MEANS OF EFFECTING COMPLIANCE

§ 1040.111 Means available.

If there appears to be a failure or threatened failure to comply with any of the provisions of this part, and if the noncompliance or threatened noncompliance cannot be corrected by voluntary means, compliance with this part may be effected by the suspension, termination of, or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law. Such other means may include, but are not limited to:

(a) Referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law including the Civil Rights Act of 1964, other statutes to which this part applies, or any assurance or other contractual undertaking; and

(b) Any applicable proceeding under State or local law.

§ 1040.112 Noncompliance with assurances.

If an applicant fails or refuses to furnish an assurance required under § 1040.4 of subpart A of this part, or otherwise fails or refuses to comply with a requirement imposed by this part, such as § 1040.102(c), subpart G of this part, action to refuse Federal financial assistance shall be taken in accordance with procedures of § 1040.114 of this subpart.